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Calendar No. 817

97TH CONGRESS, 2d Session } SENATE { REPORT No. 97-555

WAIVER OF THE 160-ACRE LIMITATION OF THE COLOR OF TITLE ACT FOR A CERTAIN LAND CLAIM IN THE STATE OF LOUISIANA

SEPTEMBER 20 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1978]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1978) to quiet title and possession with respect to a certain private land claim in Livingston Parish, Louisiana, having considered the same, reports favorably thereon with an amendment to the text and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That for the purposes of this Act only, the limitation provisions of section 1 of the Act of December 22, 1928, as amended (45 Stat. 1069; 43 U.S.C. 1068), popularly known as the Color-of-Title Act, that restricts conveyances under that Act to not more than 160 acres, shall not apply to any claim for a patent that may be filed under the Color-of-Title Act for a parcel of land described as section 39, township 5 south, range 4 east, Saint Helena Meridian, Louisiana.

Section 2. Except as otherwise provided in section 1 of this Act, all provisions of the Color-of-Title Act shall apply to any claim for a patent under the Color-of-Title Act for the parcel of land described in the first section of this Act.

BACKGROUND AND NEED

A private land claim was made by William Dennis on a 640 acre parcel of land located in Livingston Parish, Louisiana, in the early 1800's.

The Dennis claim was included in a report on land claims west of the Pearl River that was transmitted to the United States Senate on January 3, 1820. The report described the claim as only "partially improved." Apparently, the claim was not confirmed.

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In 1846, the claim was before Congress again. It appears that the claim did not meet the requirements for confirmation established by Congress under the Act of August 6, 1846. In 1913, legislation to confirm a number of land claims, including the Dennis claim, was introduced in Congress but was not enacted.

A thorough search of Bureau of Land Management records has failed to reveal a patent for the involved lands. Since no evidence exists that the claim was ever confirmed by the Congress or patented, the land remains part of the public domain and legal title resides in the United States.

The current claimants to the land appear to have acquired it in good faith and to have paid taxes on it and otherwise maintained it as lawful owners. The claimants included the George Pacific Corporation, which uses approximately 270 acres of the 640-acre parcel, the Crown-Zellerbach Corporation, which uses approximately 280 acres, and several private individuals.

LEGISLATIVE HISTORY

S. 1978 was introduced by Senator Johnston on December 16, 1981. The Public Lands and Reserved Water Subcommittee received testimony on S. 1978 on July 27, 1982. The Administration supports the enactment of S. 1978 if amended as indicated in testimony before the Subcommittee. At a business session on September 15, 1982, the Committee on Energy and Natural Resources ordered S. 1978 favorably reported, as amended.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in an open business session on September 15, 1982, by unanimous vote of a quorum present recommends that the Senate pass S. 1978, with an amendment in the nature of a substitute as described herein.

The rollcall vote on reporting the measure was 17 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield	
Mr. Domenici	
Mr. Wallop	
Mr. Warner [1]	
Mr. Humphrey [1]	
Mr. Murkowski	
Mr. Nickles	
Mr. East [1]	
Mr. Heinz [1]	
Mr. Jackson	
Mr. Johnston [1]	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Matsunaga [1]	
Mr. Melcher	

[1] Indicates voted by proxy.

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COMMITTEE AMENDMENTS

The Committee adopted an amendment in the nature of a substitute. The Committee amendment provides for the waiver of the 160 acres limitation of the Color-of-Title Act for purposes of this particular claim only rather than transfer title to the claimant. If the 160-acre limitation is lifted as recommended, the heirs and assigns of William Dennis would apply for a patent under the Color-of-Title Act. Adjudication of the claim under that Act would resolve the issue.

The usual remedy to claimants asserting ownership of Federal land under these circumstances is under the Color-of-Title Act (54 Stat. 1069; 43 U.S.C. 1068). That Act, however, limits conveyances to 160 acres. Under the Act, claimants meeting the requirements are issued a patent upon payment of compensation to the United States for the land, taking into account the equities of the claimant. Minerals are reserved to the United States unless the claimant specifically requests that the patent not contain such a reservation, the other requirements of the Act have been met since 1901, and the land is not within a mineral withdrawal or subject to an outstanding mineral lease. The land affected by S. 1978 is not within such a withdrawal or subject to such a lease. Although the matter has not been adjudicated, it appears that this claim would meet the requirements of the Color-of-Title Act if it were not for the acreage limitation.

COST AND BUDGETARY CONSIDERATIONS

The Committee does not anticipate any additional budgetary impact from enactment of S. 1978, to quiet title and possession with respect to a certain private land claim in Livingston Parish, Louisiana.

This bill is a private relief measure and therefore does not require a Congressional Budget Office estimate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1978 as reported.

S. 1978 as reported provides for the waiver of the 160-acre limitation of the Color-of-Title Act for purposes of a particular claim.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 1978.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to S. 1978 is set forth below:

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U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 5, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U. S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1978, a bill "To quiet title and possession with respect to a certain private land claim in Livingston Parish, Louisiana."

We would not object to enactment of S. 1978 if it is revised in accordance with the suggestions discussed below.

S. 1978 would transfer title to approximately 640 acres of land located in Livingston Parish, Louisiaina, from the United States to William Dennis, his heirs, or assigns. The land involved—section 39, township 5 south, range 4 east, Saint Helena meridian, Louisiana—is encompassed by the private land claim of William Dennis. The claim was included in a report on land claims west of the Pearl River that was transmitted to the United States Senate on January 3, 1821. The Dennis claim was listed as only "partially improved" and apparently was not confirmed. An exhaustive search of the records on file in the Eastern States Office of the Bureau of Land Management (BLM) has failed to reveal issuance of a patent for the claim.

The official file documenting the William Dennis claim discloses that the claim did not appear to meet the requirements for confirmation established by Congress under the Act of August 6, 1846 (9 Stat. 66). Inasmuch as no evidence exists that the claim was ever confirmed or patented, the land remains in the public domain and legal title resides in the United States. Legislation to confirm a number of land claims, including that of William Dennis, was introduced in Congress in 1913, but was not enacted. The current claimants to the land appear to have acquired it in good faith and to have paid taxes on it and otherwise maintained it as the lawful owners.

The usual remedy to claimants asserting ownership of Federal land under these circumstances is under the Color-of-Title Act (45 Stat. 1069; 43 U.S.C. 1068). That Act, however, limits conveyances to 160 acres. Under that Act, claimants meeting the requirements are issued a patent upon payment of compensation to the United States for the land, taking into account the equities of the claimant. Minerals are reserved to the United States unless the claimant specifically requests that the patent not contain such a reservation, the other requirements of the Act have been met since 1901, and the land is not within a mineral withdrawal or subject to an outstanding mineral lease. The land affected by S. 1978 is not within such a withdrawal or subject to such a lease. Although the matter has not been adjudicated, it appears that this claim would meet the requirements of the Color-of-Title Act if it were not for the acreage limitation.

The Department of the Interior cannot support enactment of S. 1978 as presently written because it violates our policy which requires that the Government should receive compensation for its interests as expressed in the Color-of-Title Act. Furthermore, the claimants' eligibility for the patent has not yet been established.

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We would have no objection to enactment of S. 1978 if is were amended to provide for the waiver of the 160-acre limitation of the Color-of-Title Act for purposes of this particular claim only. If the 160-acre limitation is lifted as recommended, the heirs and assigns of William Dennis would apply for a patent under the Color-of-Title Act. Adjudication of the claim under that Act would resolve the issue. We will be happy to work with the Committee to develop the language for such an amendment.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GARRY E. CARRUTHERS,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill, S. 1978, as reported.

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